



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002029

[REDACTED]

Dear [REDACTED],

On April 24, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and January 1, 2015 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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## Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002029



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on December 22, 2014 that you were not eligible for financial assistance effective January 1, 2015, because your renewal period and income data were not available?

Did the Marketplace properly determine on January 1, 2015 that you were newly conditionally eligible to receive an advance premium tax credit of up to \$297.00 per month and cost sharing reductions, effective February 1, 2015?

## Procedural History

On November 6, 2014, the Marketplace issued a notice that stated it was time for you to renew your health insurance coverage for 2015. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for continuing financial help in paying for your health coverage in 2015. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

No updates were made to your account before December 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive APTC because "renewal period and income data [was] not available." You were not eligible for cost-sharing

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reductions because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 31, 2014 the Marketplace received your updated application for health insurance.

On January 1, 2015 the Marketplace issued an eligibility determination notice that stated you were newly conditionally eligible, to receive up to \$297.00 per month in APTC, and if you enrolled in a silver level health plan, newly conditionally eligible to receive cost-sharing reductions. This eligibility was effective February 1, 2015. The notice further requested that you provide documentation to confirm your citizenship status before April 2, 2015.

On January 22, 2015 the Marketplace received your updated application for health insurance.

On January 23, 2015 the Marketplace issued an eligibility determination notice that stated you were conditionally eligible, to receive up to \$302.00 per month in APTC, and if you enrolled in a silver level health plan, conditionally eligible to receive cost-sharing reductions. This eligibility was effective March 1, 2015. The notice further requested that you provide documentation to confirm your citizenship status before April 24, 2015.

On March 13, 2015 you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination because you were seeking to have your APTC made effective for January 1, 2015.

On April 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Spanish Interpreter # [REDACTED] assisted during the hearing. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified, and your account reflects, that you receive your notices from the Marketplace via electronic mail.
- 2) You testified that you did not receive a renewal notice in November asking you to update your account.

- 3) You testified that you did not know you needed to renew your application until your niece called the Marketplace on your behalf at the end of December.
- 4) You testified that you paid the insurance premium for January less the amount of APTC you were told you were eligible for in the January 1, 2015 eligibility determination notice.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(iii)). However, the Marketplace may determine that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has chosen to do so.

## Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

The issues under review are whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan, at full cost, effective January 1, 2015 and whether your eligibility for an advance premium tax credit (APTC) of up to \$297.00 per month and cost-sharing reductions was effective February 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the projected eligibility determination for the following year. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 6, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

Your information was not updated prior to the deadline and on December 22, 2014 the Marketplace issued a notice that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive APTC or cost-sharing reductions because renewal period and income data was not available at the time of the redetermination.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the November 6, 2014 renewal notice asking you to update your information with the Marketplace.

Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to update your account.

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You renewed your eligibility for financial assistance through the Marketplace for 2015 on December 31, 2014, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice. Later adjustments to your account were made after you were aware that renewal was needed and therefore their effective dates are correct.

Therefore, the December 22, 2014 notice of eligibility redetermination is **RESCINDED**. Your case is returned to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, December 31, 2014 application.

The January 23, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

## **Decision**

Therefore, the December 22, 2014 notice of eligibility redetermination is **RESCINDED**. Your case is **RETURNED** to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, December 31, 2014 application.

The January 1, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

**Effective Date of this Decision:** August 27, 2015

## **How this Decision Affects Your Eligibility**

You continue to be temporarily eligible to receive APTC as previously awarded; however, your case will be reevaluated to correct the amount of APTC due to you.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This

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must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Therefore, the December 22, 2014 notice of eligibility redetermination is **RESCINDED**. Your case is **RETURNED** to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, December 31, 2014 application.

The January 1, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

You continue to be temporarily eligible to receive APTC as previously awarded; however, your case will be reevaluated to correct the amount of APTC due to you.



## **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

